

file

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

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AT 8:00
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Attorneys for Plaintiffs Altana Pharma AG and Wyeth

ALTANA PHARMA AG and)
WYETH)
Plaintiffs,)
v.)
TEVA PHARMACEUTICALS USA,)
INC. and TEVA)
PHARMACEUTICAL INDUSTRIES,)
LTD.,)
Defendants.)

CIVIL ACTION NO. 04-2355
(JLL)

ALTANA PHARMA AG and)
WYETH)
Plaintiffs,)
v.)
SUN PHARMACEUTICAL)
INDUSTRIES, LTD. and SUN)
PHARMACEUTICAL ADVANCED)
RESEARCH CENTRE, LTD.,)
Defendants.)

CIVIL ACTION NO. 05-1966
(JLL)

~~PROPOSED~~ ORDER REGARDING THE
MOTION FOR CONSOLIDATION OF
SUN PHARMACEUTICAL INDUSTRIES, LTD. AND SUN
PHARMACEUTICAL ADVANCED RESEARCH CENTRE, LTD.

WHEREAS, Sun Pharmaceutical Industries, Ltd. and Sun Pharmaceutical Advanced Research Centre, Ltd. (hereinafter collectively "Sun"), defendants in Civil Action No. 05-1966 (JLL) (the "Second Action"), have moved before this Court for an order consolidating for all purposes the above-captioned patent infringement actions pending before the Honorable Jose L. Linares, U.S.D.J., that involve the same patent: *Altana Pharma AG, and Wyeth v. Teva Pharmaceuticals USA, Inc., et al.*, Civil Action No. 04-2355 (JLL) and *Altana Pharma AG and Wyeth v. Sun Pharmaceutical Industries, Ltd., et al.*, Civil Action No. 05-1966 (JLL);

WHEREAS, the plaintiffs in both of those actions, Altana Pharma AG and Wyeth, support the motion for consolidation and have requested entry of certain conditions to avoid unnecessary costs or delay;

WHEREAS, the defendants in *Altana Pharma AG, and Wyeth v. Teva Pharmaceutical USA, Inc., et al.*, Civil Action No. 04-2355 (JLL), (the "First Action") Teva Pharmaceuticals USA, Inc. and Teva Pharmaceuticals Industries, Ltd. (hereinafter collectively "Teva"), have taken no position on the motion for consolidation;

WHEREAS both actions involve at least common questions of law and fact concerning United States Patent No. 4,758,579 ("the '579 patent"), the only patent-in-suit in both actions;

WHEREAS the Court finds that consolidating the two cases with appropriate conditions will conserve resources of the parties and the Court, avoid duplication of effort, achieve time savings in a manner that is consistent with the duties of the parties to reasonably cooperate in expediting litigation under the Hatch-Waxman Act, and avoid producing inconsistent or conflicting results, without prejudicing any of the parties to the two actions;

and the Court having considered the papers submitted; and for good cause shown;

IT IS ORDERED that Sun's motion to consolidate the above-captioned cases for all purposes is GRANTED;

IT IS FURTHER ORDERED that the above-captioned actions *Altana Pharma AG, and Wyeth v. Teva Pharmaceuticals USA, Inc., et al.*, Civil Action No. 04-2355 (JLL) and *Altana Pharma AG, and Wyeth v. Sun Pharmaceutical Industries, Ltd., et al.*, Civil Action No. 05-1966 (JLL) are consolidated for all purposes;

IT IS FURTHER ORDERED that the provisions of the Pretrial Scheduling Order in the First Action shall apply to Sun, including

the provisions concerning amendment to the pleadings and the deadline for service of document requests;

IT IS FURTHER ORDERED that the total number of depositions taken by each side (plaintiffs on the one side and the Teva and Sun defendants on the other side) shall, consistent with the Federal Rules, be limited to 10 depositions per side, each deposition limited to one seven hour day;

IT IS FURTHER ORDERED that the Teva and Sun defendants shall cooperate in the selection and joint conduct of the depositions they take so that each witness is deposed once and without duplicative questioning. ⁽⁸⁾

SO ORDERED this 20th day of June, 2005;

R. Linares
Hon. Jose L. Linares, U.S.D.J.
USMJ

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① Counsel are expected to confer within 14 days of date hereof to address all discovery matters and to immediately thereafter advise the Court of any disputes.